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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

12
13 UNITED STATES OF AMERICA,) No. CR 19-00159 EJD
14 Plaintiff,)
15 v.) UNITED STATES' SENTENCING
16 REYES DANIEL RUIZ,) MEMORANDUM
17 Defendant.)
18 _____)

19 Through his job as a Yahoo engineer, Mr. Reyes Daniel Ruiz violated the privacy of thousands
20 of persons by hacking into private electronic accounts, by rummaging through highly personal images
21 and financial information, and by stealing records to which he had no legal right. He abused his position
22 because the misappropriated data did not belong to him or his employer. It belonged to the account
23 holders who held a reasonable expectation of privacy in their personal records. Just like a bank, Mr.
24 Ruiz and Yahoo held the digital data in trust, with an obligation to safeguard and protect it from threats
25 inside the company and out. His breach was severe. He lost his job, pled guilty to a felony offense, and
26 now the United States asks this Court to sentence Mr. Ruiz to a period of incarceration.

1 Through the plea agreement, Mr. Ruiz admitted to intentionally accessing without permission
2 thousands of private Yahoo accounts for the purpose of viewing and taking personal information,
3 including sexual images and videos of the account holders. He admitted to targeting the accounts
4 belonging to younger women. He admitted accessing the private accounts of friends and co-workers.
5 By his estimation, he downloaded approximately 2 terabytes of data, and possessed between 1,000 and
6 4,000 private images and videos. He also admitting using his unauthorized access to private Yahoo
7 accounts to hack into private iCloud, Hotmail, DropBox, Facebook, Gmail, and Photobucket accounts in
8 search of additional private sexual images and videos. The final tally of compromised accounts cannot
9 be determined because Mr. Ruiz destroyed all the evidence of his illegal conduct, including the hard
10 drive on which he stored the data, and the list of target accounts he maintained, before the FBI executed
11 a search warrant at his residence.

12 The government agrees with the Total Offense Level and Criminal History Category identified in
13 the Presentence Investigation Report. The obstruction of justice enhancement under U.S.S.G. § 3C1.1
14 properly applies. Pre-investigative conduct can be the basis for the obstruction of justice enhancement,
15 like here, where the conduct was purposefully calculated and likely to thwart the investigation or
16 prosecution. *United States v. Rising Sun*. 522 F.3d 989, 996 (9th Cir. 2008).

17 Mr. Ruiz's assistance to the FBI during the investigation is appropriately considered under the
18 acceptance of responsibility provision under U.S.S.G. § 3E1.1. Normally, the application of the
19 obstruction enhancement prevents a defendant from receiving any acceptance of responsibility credit.
20 See Application Note 4 to U.S.S.G. § 3E1.1. The government agrees that Mr. Ruiz should receive
21 acceptance of responsibility credit under § 3E1.1(a), and also moves for the third point under § 3E1.1(b).
22 PSR ¶¶ 30 and 31. In the view of the United States, the Guidelines should reflect both Mr. Ruiz's
23 destruction of evidence before the investigation started, and also Mr. Ruiz's assistance to the FBI after
24 the execution of the search warrant at his residence.

25 The United States respectfully recommends, as recognized by the Probation Officer, that a
26 sentence of incarceration should be imposed. The nature of these intrusions, the length of time he
27 carried on these violations, and the victims he targeted aggravate the offense conduct. The United States
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1 recognizes this is Mr. Ruiz's first offense, that his personal, educational, and professional
2 accomplishments, prior to this serious misconduct, are impressive and a credit to him. He has the talents
3 and abilities to rebuild his career and lead a law-abiding life. He continues to have the support of family
4 and friends in the community. The United States also recognizes the country is in the middle of a
5 serious public health pandemic, and this Court may consider that factor in fashioning a sentence of
6 imprisonment not greater than necessary for Mr. Ruiz.

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8 DATED: June 22, 2020

Respectfully submitted,

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10 DAVID L. ANDERSON
United States Attorney

11 /s/
12 DANIEL KALEBA
Assistant United States Attorney

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